

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Reginald Brown, #2531,	)	C/A No. 3:07-3508-JFA-JRM
	)	
Plaintiff,	)	
v.	)	<b>ORDER</b>
	)	
Mr. NFN Trap, Nurse; Mr. NFN DJ, Nurse;	)	
Ms. NFN Clark, Nurse,	)	
	)	
Defendants.	)	
	)	

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The *pro se* plaintiff, Reginald Brown, is an involuntarily committee patient under the South Carolina Sexually Violent Predator's law, in the custody of the South Carolina Department of Mental Health. He initiated this action against the defendants pursuant to 42 U.S.C. § 1983 claiming that the defendants gave plaintiff the wrong medication which caused him serious illness.

In a detailed Report and Recommendation filed with the court on December 14, 2007, the Magistrate Judge recommends that the complaint should be dismissed for failure to present a cognizable claim rising to the level of a constitutional violation. The Magistrate notes that it is well-settled that negligence and medical malpractice are not actionable under § 1983, and therefore, the plaintiff's complaint should be dismissed. The Report sets forth

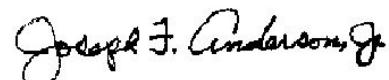
in detail the relevant facts of this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report. However, within the time limits prescribed by the local rules of this district, the plaintiff has failed to file objections. The plaintiff did file a motion for default judgment as to all defendants and motion to appoint counsel. Because the complaint has not been authorized for service on the defendants, the motion for default judgment is premature and must be dismissed. The plaintiff's motion to appoint counsel is denied in light of the fact that this action is recommended for dismissal.

After carefully reviewing the applicable law, the record in this case, and the Report and Recommendation, the court finds that the Magistrate Judge's Report fairly and accurately summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.

It is therefore ordered that this action is dismissed for failure to state a claim upon which relief may be granted. The dismissal is without prejudice and without issuance and service of process.

IT IS SO ORDERED.



Joseph F. Anderson, Jr.  
United States District Judge

January 23, 2008  
Columbia, South Carolina